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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/814,563	03/22/2001	Leo Parker	2378/104	4515
2101 7590 03/22/2007 BROMBERG & SUNSTEIN LLP 125 SUMMER STREET BOSTON, MA 02110-1618			EXAMINER HEWITT II, CALVIN L.	
			ART UNIT	PAPER NUMBER
			3621	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		03/22/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Office Action Summary

Application No.

09/814,563

Applicant(s)

PARKER ET AL.

Examiner

Calvin L. Hewitt II

Art Unit

3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 03 January 2007.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 31-53 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 31-53 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_.

***Status of Claims***

1. Claims 31-53 have been examined.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 31-53 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The terms "compact" and "generically indicates" in claims 31 and 46 are relative terms which renders the claim indefinite. The terms "compact" and "generically indicates" are not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Regarding "compact", the language "relative to the calendar data set" does not define "compactness" but merely indicates a reference point for measuring an availability set.

Claims 32-45 and 47-53 are also rejected as each depends from either claim 31 or 46.

Claims 36 and 51 recite "wherein the availability request includes an identifier for each attendee and a time period for which availability *should* be determined" (emphasis added). To one of ordinary skill, the term "should" indicates that the server may not be able to determine and transmit availability data, hence claims 36 and 51 contradicts claims 31 and 46, respectively.

Claim 37 is also rejected as it depends from 36.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 31-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Conmy et al., U.S. Patent No. 6,101,480 in view of Schuster et al., U.S. Patent No. 6,577,622, and Rubert et al., U.S. Patent No. 6,366,915.

As per claims 31-53, Conmy et al. disclose a scheduling system comprising:

- receiving at a server an availability request over a network (e.g. internet) from a user (figure 1; column 3, lines 20-38) wherein the server has access to attendee calendar data (figure 1, item 210)
- performing a search by the server over the calendar data of each attendee to produce an availability set that indicates at least one of free space and busy space in an attendee's schedule (column 5, lines 35-64)
- transmitting to the user the availability set that indicates an attendee's (as a group) schedule (e.g. free and busy time) and displaying it to the user (figures 5-9; column 3, lines 27-37; column 5, lines 36-40; column/line 7/26-8/25; column 8, lines 45-48)
- wherein the request includes an attendee identifier and a time period (column 5, lines 35-51)
- storing an attendee's calendar in a server database (figure 1, item 210) and scheduling an event based on the calendar (figure 4)
- updating the calendar data with the scheduled event (i.e. subsequent attempts to schedule the attendee at the time of the event will result in a conflict) (column/line 4/56-5/3; column 5, lines 55-62; column 6, lines 60-65; column 7, lines 32-39)

Regarding granting permission to view an attendee's data, it is inherent to the teachings of Conmy et al. that by creating a profile and storing it on a server (figure 1, item 202; column 1, lines 33-43; column 2, lines 3-18; column 3, lines

55-63) a potential attendee is giving permission to have their profiles accessed by event coordinators for the explicit purpose of scheduling an event (column 3, lines 27-37). In other words, if a user doesn't provide a profile, the user cannot be scheduled. Also by storing the profile (figure 1, item 202), the server is storing an indication of whether permission was granted. Conmy et al. do not explicitly recite wireless internet access. Schuster et al. disclose a computer that wirelessly accesses the internet (figure 1; column 5, lines 22-41; column 6, lines 20-51). The motivation to combine the teachings of Conmy et al. and Schuster et al. is found in *In re Lindberg* (93 USPQ 23 (CCPA 1952)), where it has been held that an obvious modification of the computer system of Conmy et al. ('480, figure 1) is to make it portable.

Regarding an identifier as an email address, Conmy et al. direct their invention to a group scheduling system such as the Lotus family of products (column 1, lines 32-44; column 2, lines 3-10). The Conmy et al. system allows a coordinator to select users for arranging an event wherein users are stored in a database by name and email address (column 3, lines 38-43). More specifically, Conmy et al. teach selecting a user according to a profile stored in said user's electronic mail file (column 5, lines 45-51). Hence, it would have been obvious to one of ordinary skill to select a user identify by an email address as it identifies a user's mail file (note: two people can have the same name).

Regarding an attendee accessing the availability of the user, persons exchanging emails in order to determine each other's availability are old and well known. Hence, while attempting to determine an optimal time, it would have been obvious for the user and an important attendee, such as a keynote speaker, to exchange emails regarding each other's availability (column 6, lines 29-45).

Conmy et al. do not place restrictions on the type of device for interfacing with their system other than it can access a remote server over a computer network (column 4, lines 15-29). Schuster et al. teach wireless accessing the internet (column 6, lines 31-51). Neither Conmy et al., nor Schuster et al. explicitly recite requesting permission to view attendee data. Rubert et al. verifying the identity of a user prior to allowing a user to access a database (abstract; column 4, lines 8-39; column 8, lines 26-39; column/line 12/62-13/13). Regarding a time frame for viewing an attendee's availability data, Applicant's claims are silent the attendee *establishing* viewing times, such as through a GUI. The Examiner regards it as inherent to the teachings of Conmy et al. that by creating a profile and storing on a server (figure 1, item 202; column 1, lines 33-43; column 2, lines 3-18; column 3, lines 55-63) a potential attendee is giving permission to have their profiles accessed by event coordinators for the explicit purpose of scheduling an event (column 3, lines 27-37). Rubert et al. teach passwords and other security methods for limiting access to corporate databases (column/line 12/62-13/13), and it is well known to those of ordinary skill in

corporate security to have passwords with limited validity periods, therefore, an attendee has access to the databases of Rubert et al. only as long (i.e. specific period of time) as the password is valid (e.g. while the person is in a company's employ). It is also well known to receive a username and password via email [claim 43]. Hence, it would have been obvious to one of ordinary skill to combine the teachings of Conmy et al., Schuster et al. and Rubert et al. in order to prevent malicious users from accessing user profile data ('915, column/line1/23-2/6).

### ***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Calvin Loyd Hewitt II whose telephone number is (571) 272-6709. The Examiner can normally be reached on Monday-Friday from 8:30 AM-5:00 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Andrew Fischer, can be reached at (571) 272-6779.

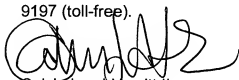
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see

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<http://pairedirect.uspto.gov>. Should you have questions on access to the

Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-

9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Calvin Hewitt II', written over the printed name.

Calvin Loyd Hewitt II  
Primary Examiner

March 17, 2007